

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Hooker on June 4, 2008.

The application has been amended as follows:

In claim 1, line 9, after "to" insert "the"

In claim 1, line 21, delete "connection" and replace with "connecting"

In claim 1, page 2 of amendment, line 21, delete ", one only" and insert "and only one"

In claim 16, line 8, delete "having" and replace with "extending from"

In claim 16, line 8, delete "," and replace with "to"

In claim 16, starting at line 9, delete "extending from the breath inlet passage to the vent recess"

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they are not formal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark

Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Allowable Subject Matter

Claims 1-6, 16-22 and 26-28 are allowed.

The following is an examiner's statement of reasons for allowance: Regarding claim 1, the prior art does not teach or fairly suggest a breath alcohol detection device that comprises a breath inlet passage having an inlet port, a vent passage communicating the breath inlet passage to the atmosphere, a two position valve having a valve inlet connected to the breath inlet passage between the inlet port and the vent passage, and having a first and second outlet; a valve member moveable to select breath output through either the first or second outlet; wherein a portion of the breath flowed through the breath inlet passage continuously flows through the valve and only one of the first or second passages and one of the restrictions so that the pressure in the breath inlet passage does not substantially vary when the valve member shifts between the first and second position. See figure 2 for description of the claimed invention.

Regarding claim 16, the prior art does not teach or fairly suggest a breath alcohol detection device that comprises a breath inlet passage in a body extending from an inlet port at the body surface to a vent passage; a two position valve having a valve inlet and

a first and second valve outlets, the valve inlet connected to the breath inlet passage, wherein breath from the breath inlet passage continuously flows through the valve and through either the first passage or the second passage only depending upon the position of the valve member. This configuration allows a substantially portion of the breath to flow from the inlet port to a vent passage while a smaller portion passes continuously through a breath inlet passage and either to the fuel cell (for measurement) located in the first passage or to a second passage that exits to a vent recess (atmosphere).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAM P. SIEFKE whose telephone number is (571)272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samuel P Siefke/
Primary Examiner, Art Unit 1797

June 5, 2008